REMARKS

In this Amendment "B", Applicant has amended claims 71, 72, 78, 79 and 85. Reconsideration of the application in its current format is hereby requested.

In the Office action, the Examiner has objected to the drawings, but has failed to explain why the drawings are objected to. Clarification is hereby requested.

The Examiner has rejected claims 71-85 under 35 U.S.C. §112, second paragraph because of a lack of antecedent basis for "said first asset". Applicant has amended the claims to provide proper antecedent basis for "said first asset".

The Examiner has rejected claims 71-73, 75-80, 82-84 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 2002/0178244 to Brittenham et al. The Examiner has also rejected claims 74, 81 and 85 under 35 U.S.C. §103(a) as being unpatentable over the Brittenham et al. patent application in view of U.S. Patent Application No. 2002/0029097 to Pionzio Jr. et al. For at least the reasons set forth below, Applicant traverses this rejection.

Initially, Applicant would like to address the Examiner's failure to give any patentable weight to the limitations recited in the preambles of the claims. Presumably, the Examiner is referring to Applicant's argument concerning "*physical assets*", "*industrial enterprise*" and "*data sources each of which have a unique name for each of said assets*". The cases cited by the Examiner do not support the Examiner's failure to consider these limitations. In fact, the very language cited by Examiner does not support the Examiner's failure to consider these limitations. The

"assets", the "data sources" and the "unique names" are all recited *in the body* of each claim. The limitations in the preamble do not merely recite purpose or intended use. They recite structure and are necessary for the completeness of the claims. "If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is 'necessary to give life, meaning, and vitality' to the claim, then the claim preamble should be construed as if in the balance of the claim." *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999). Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation. See, e.g., *Corning Glass Works v. Sumitomo Elec. U.S.A., Inc.*, 868 F.2d 1251, 1257, 9 USPQ2d 1962, 1966 (Fed. Cir. 1989).

On a macro level, it is clear from the summary of the Brittenham et al. application set forth in Applicant's Amendment "A" (which is hereby incorporated by reference) that the invention of the Brittenham et al. application is completely different from the claimed invention of the subject patent application. On a more detailed level, it is also clear that the disclosure of the Brittenham et al. application does not show or suggest the claimed invention. Some of the deficiencies of the Brittenham et al. application are set forth below.

1. The Examiner interprets the web services of the Brittenham et al. application as corresponding to the "assets" of the claims. The web services of the Brittenham et al. application, however, are not tangible and do not pertain to an industrial enterprise.

Thus, the Brittenham et al. application fails to show or suggest "physical assets", as recited in the claims.

2. The Brittenham et al. application fails to show or suggest "a monitoring system for monitoring an operating characteristic of the first asset", as is currently recited in the claims.

3. The Examiner interprets the deployment node 260 and the origin server 290 of the Brittenham et al. application as corresponding to "data sources" of the claims. The deployment node 260 and the origin server 290, however, do not each have a unique name for a web service (asset), as required by the claims. Throughout the server site of the Brittenham et al. application, only one name for a web service is used. This is graphically shown in Fig. 9 and is described in paragraph [0067]. The name of a web server is described as being its UDDI binding key.

The Examiner states that items 520 and 610 each contain a unique name for each web service (asset), which is not correct. Moreover, the items 520 and 610 are not part of the deployment node 260 and the origin server 290. The item 520 is a message entitled "Deployment Request" and does not contain a name for the requested web service. Item 610 is a tag called "serviceName" that is part of the SOAP request sent by the deployment facilitator 230. The tag 610 contains THE unique name for the web service (e.g., "urn:www.acme.com: stockquote service"). This unique name is used throughout the server system.

Based on the foregoing, it is clear that the Brittenham et al. application does not show or suggest claims 71-85.

The Pionzio Jr. et al. application discloses a SCADA system for managing wind turbines. The Pionzio Jr. et al. application does not disclose, and is not cited by the Examiner as disclosing, an asset management server, as claimed in the subject application. Thus, the Pionzio Jr. et al. application fails to cure the deficiencies of the Brittenham et al. application set forth above. Accordingly, Applicant submits that claims 71-85 are patentable over the Brittenham et al. application and the Pionzio Jr. et al. application, individually and in combination.

Based on the foregoing, Applicant submits that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 050877.

Respectfully submitted,

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November 8, 2006
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